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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,520	01/18/2002	Harry Giewercer		7761

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CANADA

EXAMINER

COHEN, AMY R

ART UNIT PAPER NUMBER

2859

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

HA

Office Action Summary

Application No. 10/050,520		Applicant(s) GIEWERCER, HARRY	
Examiner Amy R. Cohen		Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 59-83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 59 is objected to because of the following informalities:

Claim 59 claim language is confusing since section b claims a "continuous loop member" which has "two free ends." Continuous loops do not have free ends since they are continuous loops. Further, since Applicant is claiming product of a continuous loop formed of a deformable sheet, for purposes of prosecution, Examiner interprets the claim language to claim a deformable sheet continuous loop member. See paragraph 3 of this Office Action.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 59, 62-64, 68-72, 75-79, 82 are rejected under 35 U.S.C. 102(b) as being anticipated by Peterson, Jr. (U. S. Patent No. 2,567,395).

Claims 59, 62-64, 68-71: Peterson, Jr. teaches in a reminder device (Fig. 1), the device comprising: a cylindrical container (10, 11) having an exterior side surface; a deformable sheet continuous loop member (14), said sheet including a first edge, a second edge opposite thereto (Col 4, lines 1-15 and Col 5, lines 56-71); said loop member defining a first structural area (Figs. 3, 4, 9, area where 23 is not present) for supportive engagement and said loop member defining a

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second structural area (21 or 23) for selective anti-displacement engagement; said loop member held on the side of said container (Figs. 1 and 10) and said loop member engageably movable within a plane to each of a plurality of selectable reminding positions (Col 4, lines 1-15, Col 4, line 64-Col 5, line 5 and Col 5, lines 33-55); a deformable support sheet member (13), said support member defining a first structural area (Figs. 5, areas where 22 is not present) to receive supportive engagement therewith said first area of said loop member, and said support member defining a second structural area (21, 22) to receive selective anti-displacement engagement therewith said second area of said loop member at one of said selectable positions (Col 4, lines 1-15, Col 4, line 64-Col 5, line 5 and Col 5, lines 33-55); said selective anti-displacement engagement of said second area of said loop member with said second area of said support member at one of said selectable positions disallowing said loop member to move along a path within said plane, said path representing the shortest distance within said plane, between said one selected position and a second one of said selectable positions (Col 4, lines 1-15, Col 4, line 64-Col 5, line 5 and Col 5, lines 33-55).

Peterson, Jr. teaches the device wherein one of said anti-displacement engagement areas includes an element which is chosen from a list which includes, a *détente*, an anti-rotation *détente*, an aperture, a tooth, a label sheet, a deformable member, an adherable member, a notch, an adhesive member, a tab, an opening, a bump, a recess, a protrusion, a slit, a ridge, a deformation (Figs. 3-6, 8, 9).

Peterson, Jr. teaches the device including cooperative indicia (Figs. 1, 3-6, 8, 9).

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Peterson, Jr. teaches the device wherein said cooperating indicia include an arrangement of times cooperating with a pointer (19, 20) adapted to point to any one of said times (Figs. 1, 3-6, 8, 9).

Peterson, Jr. teaches the device wherein said loop member can slide to select said position (Col 4, lines 1-15, Col 4, line 64-Col 5, line 5 and Col 5, lines 33-55).

Peterson, Jr. teaches the device wherein said loop member can rotate to select said position (Col 4, lines 1-15, Col 4, line 64-Col 5, line 5 and Col 5, lines 33-55).

Peterson, Jr. teaches the device wherein said indicia can be further customized (to include additional years, Figs. 5 and 6).

Peterson, Jr. teaches the device including a plurality of non-identical selectable values viewable at a viewing surface of said support member, said unselected plurality simultaneously viewable immediately prior to selection (Figs. 1, 5, 6, and 11).

Claims 72, 75-79, 82: Peterson, Jr. teaches in a reminder device (Fig. 1), the device comprising: a cylindrical container (10, 11) having an exterior side surface; a deformable sheet continuous loop member (14) defining a first structural area (Figs. 3, 4, 9, area where 23 is not present) for supportive engagement and said loop member defining a second structural area (21 or 23) for selective anti-displacement engagement, the material forming said second structural area including a deformable sheet material (Col 4, lines 1-15 and Col 5, lines 56-71); said loop member held on the side of said container and said loop member engageably movable within plane to each of a plurality of selectable reminding positions (Col 4, lines 1-15, Col 4, line 64-Col 5, line 5 and Col 5, lines 33-55); a deformable support sheet member (13), said support member defining a first structural area (Figs. 5, areas where 22 is not present) to receive

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supportive engagement therewith said first area of said loop member, and said support member defining a second structural area (21, 22) to receive selective anti-displacement engagement therewith said second area of said loop member at one of said selectable positions (Col 4, lines 1-15, Col 4, line 64-Col 5, line 5 and Col 5, lines 33-55); said selective anti-displacement engagement of said second area of said loop member with said second area of said support member at one of said selectable positions disallowing said loop member to move along a path within said plane, said path representing the shortest distance within said plane, between said one selected position and a second one of said selectable positions (Col 4, lines 1-15, Col 4, line 64-Col 5, line 5 and Col 5, lines 33-55).

Peterson, Jr. teaches the device wherein one of said anti-displacement engagement areas includes an element which is chosen from a list which includes, a détente, an anti-rotation détente, an aperture, a tooth, a label sheet, a deformable member, an adherable member, a notch, an adhesive member, a tab, an opening, a bump, a recess, a protrusion, a slit, a ridge, a deformation (Figs. 3-6, 8, 9).

Peterson, Jr. teaches the device wherein said loop member can slide to select said position (Col 4, lines 1-15, Col 4, line 64-Col 5, line 5 and Col 5, lines 33-55).

Peterson, Jr. teaches the device including cooperative indicia (Figs. 1, 3-6, 8, 9).

Peterson, Jr. teaches the device wherein said cooperating indicia include an arrangement of times cooperating with a pointer (19, 20) adapted to point to any one of said times (Figs. 1, 3-6, 8, 9).

Peterson, Jr. teaches the device wherein said loop member can rotate to select said position (Col 4, lines 1-15, Col 4, line 64-Col 5, line 5 and Col 5, lines 33-55).

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Peterson, Jr. teaches the device including a plurality of non-identical selectable values viewable at a viewing surface of said support member, said unselected plurality simultaneously viewable immediately prior to selection (Figs. 1, 5, 6, and 11).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 60, 65, 73, 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, Jr. in view of Trimble-Gomez (U. S. Patent No. 5,711,425).

Peterson, Jr. discloses the device as described above in paragraph 3.

Peterson, Jr. does not disclose the device wherein said loop member is included in a first portion and said support member is included in a second portion of a common deformable sheet; and wherein said loop member portion is releasable from said common sheet; and including an adhesive.

Trimble-Gomez discloses a reminder device comprising a cylindrical container (16) having an exterior side surface; a deformable engageable sheet member mountable as a continuous loop member (32); and a deformable support sheet (20); wherein said loop member is included in a first portion and said support member is included in a second portion of a common deformable sheet (Fig. 2); and wherein said loop member portion is releasable from said

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common sheet (Col 3, lines 46-66); and including an adhesive (Col 3, lines 35-45 and Col 4, lines 22-32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Peterson, Jr. to have the continuous loop member and the support sheet be of a common deformable sheet and detachable therefrom, as taught by Trimble-Gomez, in order to ensure that the loop member and the support member are correlated and so that only one deformable sheet is needed per device and in order to ensure that the support member remains in a position.

6. Claims 61, 66, 67, 74, 81, and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, Jr. in view of Annunziata (U. S. Patent No. 2,528,259).

Peterson, Jr. discloses the device as described above in paragraph 3 and wherein the container may be used to dispense products (Col 3, lines 54-66).

Peterson, Jr. does not disclose the device wherein said support member is a prescription label; wherein said container is a pharmacy container; including a pharmacy label.

Annunziata discloses a device (Fig. 1) comprising a loop member (20), a container (10) and a support member (16, 19), wherein said support member is a prescription label (Fig. 1); wherein said container is a pharmacy container (Fig. 1); including a pharmacy label (24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Peterson, Jr. to be a pharmacy container with a prescription label, since Peterson, Jr. discloses a container for dispensing products with cooperative timing indicia (Col 3, lines 35-66) and since a type of container for dispensing products is a pharmacy

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container for dispensing products with cooperative timing indicia which include prescription labels and pharmacy labels (Annunziata, Col 1, lines 1-40).

Response to Arguments

7. Applicant's arguments with respect to claims 59-83 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

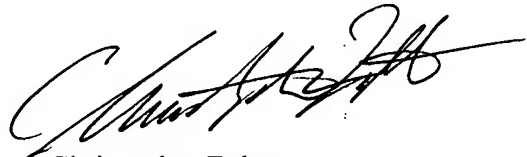
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R. Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC
April 5, 2005



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